

REMARKS

Claims 2-8 are pending. Applicants gratefully acknowledge the indication that claims 6-8 are allowable.

INVENTION IS NOVEL

Claims 2-4 have been rejected under 35 U.S.C. §102(a) as allegedly being anticipated by WO 02/59077 (Kori, et al.). The rejection is respectfully traversed.

The rejection wrongly stated that “Kori et al. teach one of the applicants’ active agents, Benzenepropanoic acid, .beta.-oxo-4-(phenylmethoxy)-, ethyl ester or Ethyl 3-(4-benz[*z*]yloxyphenyl)-3-oxopropanoate, is useful for the treatment of hyperlipidemia.” (October 23, 2008 Office Action, page 2). Kori et al. teaches two of the compounds recited in the claims, Ethyl 3-(4-benzoyloxyphenyl)-3-oxopropanoate and Ethyl 3-(3-benzoyloxyphenyl)-3-oxopropanoate, as reagents in the synthesis of certain aminoethanol derivative compounds. It is these aminoethanol compounds are said to be useful for the treatment of hyperlipidemia. Contrary to the assertion in the rejection, Kori does not teach that the cited reference compounds have any anti-hyperlipidemia activity. (See English language abstract of WO 02/59077 submitted with August 1, 2005 Information Disclosure Statement). Applicants respectfully submit that the Section 102 rejection has been overcome.

INVENTION IS NONOBVIOUS

Claim 5 has been rejected under 35 U.S.C. §103(a) as allegedly being obvious over WO 02/59077 (Kori, et al.). The rejection is respectfully traversed.

This rejection is based on the same mischaracterization of the reference that is discussed above in connection with the novelty of claims 2-4. Contrary to the rejection, Kori does

not disclose the use of Ethyl 3-(4-benzyloxyphenyl)-3-oxopropanoate or Ethyl 3-(3-benzyloxyphenyl)-3-oxopropanoate for the treatment of hyperlipidemia. These compounds are disclosed in Kori as reagents in the chemical synthesis of different compounds that are said to be useful in the treatment of hyperlipidemia. Because the rejection is based on a faulty premise, a *prima facie* case of obviousness has not been made. Applicants respectfully submit that the Section 103 rejection has been overcome.

CONCLUSION

In view of the preceding remarks, applicants respectfully submit that the subject application is in condition for allowance. Applicants respectfully request reconsideration and withdrawal of all rejections, and prompt notice of allowance.

It is believed that no fee is required in connection with the filing of this Communication. If any fee is required, the Commissioner is hereby authorized to charge the amount of such fee to Deposit Account No. 50-1677.

Respectfully submitted,

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